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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,123	02/04/2002	Kazuhiro Namba	F-7309	5982
28107	7590	11/22/2004	EXAMINER	
JORDAN AND HAMBURG LLP 122 EAST 42ND STREET SUITE 4000 NEW YORK, NY 10168			BROCKETTI, JULIE K	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/067,123	Applicant(s) NAMBA ET AL.	
	Examiner Julie K Brockett	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 and 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Okitsu et al., U.S. Patent No. 6,394,894 B1. Okitsu discloses a computer readable recording medium in which an executable game progress control program is recorded, and method to control a progress of a baseball game in which a player's team and a computer-controlled team or competitor's team alternately play offense and defense via a ball character used as a game medium (See Okitsu Fig. 2; col. 1 lines 31-35). The game progress control program comprises the following steps. A game image including a plurality of characters is displayed on a monitor screen of a computer (See Okitsu Fig. 6). The game machine receives input instructions based on directional moving operations of a pointing device with at least one button by

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the player. The entire pointing device is movable with respect to the monitor screen (See Okitsu Fig. 7; col. 7 lines 62-67; col. 8 lines 1-21). For example, the game controller is capable of being moved around. The baseball game is proceeded based on the input made by the game player (See Okitsu col. 8 lines 1-42). The designation of instructions for the pitching action of a pitcher character is accomplished by the operation of the pointing device when the player's team is the defensive side, the designation of instructions for the offensive action of a batter character is accomplished by the operation of the pointing device when the game player's team is the offensive side, and the selection of pitching or pickoff throw as said pitching action is accomplished by different operations of the button provided on the pointing device (See Okitsu col. 7 lines 4-13; 62-67; col. 8 lines 1-21) [claims 1 & 8, 9, 11, 12]. For example, a different button is used for a pickoff throw than for a regular pitch. The pointing device has at least two buttons including a first button and a second button. The selection of pitching or pickoff throw is accomplished by performing different button operations with respect to the first and second buttons (See Okitsu Fig. 3; col. 7 lines 4-13) [claims 2, 11, 12]. The designation of instructions for the type of ball is accomplished by the moving operation of the pointing device in cases where pitching is selected as the pitching action of the pitcher character (See Okitsu Fig. 7) [claim 3]. The designation of instructions for the course of the pitch is accomplished by the moving operation of the pointing device in cases where pitching is selected as

the pitching action of the pitcher character (See Okitsu col. 8 lines 13-21) [claim 4]. The operation designating instructions for the course of the pitch is received after the pitching action of the pitcher character is initiated (See Okitsu col. 8 lines 13-21) [claim 5]. Okitsu et al. further teaches of a game server, which is accessible from a computer operated by a player via a network (See Okitsu et al. col. 15 lines 51-53; col. 16 lines 7-16) [claim 8]. Parameters that define respective abilities are set in the pitcher character of the player's team. These parameters are altered in accordance with the pitching results (See Okitsu col. 9 lines 55-67) [claim 7].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okitsu in view of EA Games "Triple Play 2000". Okitsu discloses all of the limitations above, but lacks in disclosing picking off a runner by moving the operation of the pointing device to a base or using a mouse as the pointing device. The game "Triple Play 2000" teaches that the designation of a base that is to be picked off is accomplished by the moving

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operation of the pointing device in cases where the pickoff throw is selected as the pitching action of the pitcher character. The selection of the pickoff base is among a first base, as second base and a third base to which the pickoff throw is made and accomplished by a movement of the mouse to the right, top, and left direction (See "Triple Play 2000") [claim 6, 12]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to designate which base the pitcher is attempting to pickoff by simply selecting it with the controller. By simply moving the mouse to the base, the player can easily tell the program which base they want to pickoff. This is a fluid and graceful control movement and does not require much input from the player, thereby the player can concentrate on the action in the game instead of the controllers.

"Triple Play 2000 teaches of using a mouse as the input controller for the where the pitching or pickoff throw is accomplished by operation of a selected corresponding one of the first and second buttons of the mouse. The input instructions are received based on directional moving operating and button operation of a mouse (See "Triple Play 2000") [claims 11 & 12]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a mouse as the controller in Okitsu. While some users do not always have access to a specific gaming controller, most have access to a mouse. Furthermore, most users know how to use a mouse; therefore, little learning is required to use it for a game environment. Consequently, by having

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a mouse controller, more individuals would be able to play the game and mouse operations are much simpler than a controller with numerous inputs.

Response to Amendment

It has been noted that claims 1, 8 and 9 have been amended. New claims 11 and 12 have been added. Claim 10 has been cancelled.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

While the Examiner does not necessarily agree with Applicant's arguments, a new ground of rejection has been made due to the amended claim language of the independent claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

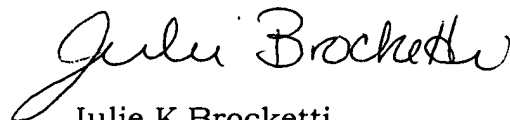
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply

is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Brockett whose telephone number is 571-272-4432. The examiner can normally be reached on M-Th 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie K Brockett
Examiner
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